

COMMITTEE AMENDMENT FORM

DATE 11/28/01

COMMITTEE CD/HR

PAGE#(S) _____

ORDINANCE# 01-O-1991

SECTION(S) _____

RESOLUTION# _____

PARAGRAPH _____

AMENDMENTS:

1. To Amend Section 1 to delete the word "accepts" and insert instead, in its place the word "**receives**" and amend the Caption by changing the word "ACCEPTING" to "**RECEIVING**".
2. To amend Section 2 to delete the word "permanent" and add at the end of current section the following language:

"for the 2002 season, 95 dBC averaged over ten minutes measured at the following two points:

- 1) Inside the amphitheatre at the same point as required in the Renewal Agreement and
 - 2) Outside the amphitheatre at the near edge of Stella Drive sound level for subsequent seasons shall be adopted by December 31, 2002.
3. To Delete Section 4 in its entirety and substitute in lieu thereof a new Section 4 to read:

" **Section 4:** Fines and default schedule for the 2002 season shall be the same as for the 2001 season based on the measurements on the back of the house, however over the entire 2002 season cumulative fines shall not be assessed beyond a maximum of \$12,000.
 4. A new Section 5 to read:

" **Section 5:** The remediation required by Paragraph 7A of the Renewal Agreement shall be satisfied by the implementation of the speaker systems and monitoring systems referred to in the referenced report, and the remaining recommendation shall be continued to be reviewed and studied."

5. A new Section 6 to read:

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“ Section 6: The Chastain Ventures shall incur all cost and enter into a lease agreement for the audio/sound equipment referenced in the report.”

6. To re-number the old Section 5 to Section 7 accordingly.

AN ORDINANCE BY COUNCILMEMBER

Donny Shubert

01- 0 -1991

AN ORDINANCE ACCEPTING THE REPORT AND RECOMMENDATIONS OF THE NEWCOMB & BOYD SPECIAL TECHNOLOGIES GROUP ENTITLED "SOUND STUDY REPORT FOR CHASTAIN AMPHITHEATRE," DATED NOVEMBER 26, 2001, AND AUTHORIZING THE MAYOR ON BEHALF OF THE CITY OF ATLANTA TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT ENTERED INTO AS OF JANUARY 1, 2001, WITH CHASTAIN VENTURES, A GEORGIA JOINT VENTURE COMPOSED OF THE ROBERT W. WOODRUFF ARTS CENTER, INC., ON BEHALF OF THE ATLANTA SYMPHONY ORCHESTRA, AND CONCERT / SOUTHERN CHASTAIN PROMOTIONS, A GEORGIA JOINT VENTURE CONSISTING OF SOUTHERN PROMOTIONS, INC., AND HIGH COTTON, INC., BOTH OF WHICH ARE GEORGIA CORPORATIONS, SO AS TO IMPLEMENT NEW SOUND REMEDIATION PROCEDURES AND LIMITS UNDER SAID JANUARY 1, 2001, AGREEMENT FOR THE LEASE AND MANAGEMENT OF THE CHASTAIN PARK AMPHITHEATER IN ACCORDANCE WITH SAID REPORT AND OTHER RELEVANT INFORMATION, AND FOR OTHER PURPOSES.

WHEREAS, the City owns a public entertainment facility located in Chastain Park and known as the Chastain Park Amphitheater; and

WHEREAS, the Chastain Park Amphitheater is a limited-use facility located in a residential neighborhood, where special conditions and restraints dictate a very specialized usage and understanding of the facility; and

WHEREAS, the operational policies and procedures with respect to the facility must be consistent with, and sensitive to, the special nature of the facility; and

WHEREAS, it is the policy of the City of Atlanta to administer a program of municipal support of the arts; and

WHEREAS, the present contract of the City with Chastain Ventures, a Georgia joint venture composed of the Robert W. Woodruff Arts Center, Inc., on behalf of the Atlanta Symphony Orchestra, and Concert / Southern Chastain Promotions, a Georgia joint venture consisting of Southern Promotions, Inc., and High Cotton, Inc., both of which are Georgia corporations, for the lease and management of Chastain Park Amphitheater, was entered into as of January 1, 2001; and

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WHEREAS, said contract, in Paragraph 7 thereof, entitled "Sound Operating Procedures," called for there to be studies done by qualified sound consultants and acoustical engineers throughout the 2001 Season, with the consultants and acoustical engineers making a final written report with their recommendations to the City (both administration and Council), and thereafter for final selection of the system for sound remediation techniques to be approved by Council by ordinance, and for the parties to amend the contract so as to reflect the permanent sound level and to implement remediation no later than March 31, 2002; and

WHEREAS, the sound consultants and acoustical engineers so employed by the City for said studies, Newcomb & Boyd Special Technologies Group, have issued their report to the City as so required, said report being entitled "Sound Study Report for Chastain Amphitheatre," dated November 26, 2001, a copy of which is attached to this ordinance as "Exhibit A" thereto, and made a part hereof by reference; and

WHEREAS, said report is recommended to the Council for acceptance by the Department of Parks, Recreation & Cultural Affairs as complying with the mandate of said Paragraph 7, entitled "Sound Operating Procedures," of the Renewal Agreement with Chastain Ventures, which Renewal Agreement which was effective as of January 1, 2001:

NOW, THEREFORE, IT IS ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: THAT the City of Atlanta hereby accepts the report issued by Newcomb & Boyd Special Technologies Group, said report being entitled "Sound Study Report for Chastain Amphitheatre," dated November 26, 2001, a copy of which is attached to this ordinance as "Exhibit A" thereto, and made a part hereof by reference; and that said report shall be considered as fulfilling the requirements in Paragraph 7, entitled "Sound Operating Procedures," of the Renewal Agreement with Chastain Ventures, which Renewal Agreement which was effective as of January 1, 2001, for the management and operation of Chastain Amphitheater, insofar as said Paragraph 7 called for there to be studies done by qualified sound consultants and acoustical engineers throughout the 2001 Season, with the consultants and acoustical engineers making a final written report with their recommendations to the City (both administration and Council), and thereafter for final selection of the system for sound remediation techniques to be approved by Council by ordinance.

Section 2: THAT the Mayor be, and he hereby is, authorized on behalf of the City of Atlanta to execute a First Amendment to the Renewal Agreement which was entered into effective

January 1, 2001, with Chastain Ventures, a Georgia joint venture composed of the Robert W. Woodruff Arts Center, Inc., on behalf of the Atlanta Symphony Orchestra, and Concert / Southern Chastain Promotions, a Georgia joint venture consisting of Southern Promotions, Inc., and High Cotton, Inc., both of which are Georgia corporations, which First Amendment shall have the purpose of implementing and adopting the procedures and sound remediation techniques as recommended in the report described in Section 1 hereof. Based upon said report and other relevant information presented to Council, the permanent sound levels established in said First Amendment are as follows: _____ .

Section 3: THAT by said First Amendment all other terms and conditions of the Renewal Agreement for Chastain Amphitheater entered into effective January 1, 2001, shall be reaffirmed, and shall remain in full force and effect, other than those specifically amended by said First Amendment.

Section 4: THAT the appropriate City departments are directed to develop and issue a Request for Proposals from contractors in accordance with the recommendations of said report, for the purpose of implementing the sound remediation techniques recommended in said report, such that remediation implementation will be underway no later than March 31, 2002, with completion to be accomplished in time for the beginning of the 2002 Season at Chastain Amphitheater.

Section 5: THAT all ordinances and resolutions in conflict herewith are hereby repealed for purposes of this Ordinance only, and only to the extent of said conflict.

SOUND STUDY
REPORT FOR
CHASTAIN PARK AMPHITHEATRE

Prepared for:
City of Atlanta

By

Newcomb & Boyd
Special Technologies Group
One Northside 75
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(404) 352-3930

November 26, 2001

EXHIBIT A